

CITY OF YORK LOCAL PLAN
PHASE 2 HEARINGS
REPLY BY FULFORD PARISH COUNCIL TO EX/CYC/84
THE SUSTAINABILITY ASSESSMENT
MAY 2022

Key Legal Principles

- 1 Fulford Parish Council (FPC) does not necessarily disagree with the legal principles set out in CYC's response to our original statement. However, it disagrees with how CYC has sought to apply these principles. It also notes that the response makes almost no reference to the policy tests for the adequacy of the SA as set out in the NPPF and the PPG.
- 2 CYC misrepresents FPC's position on a key matter. FPC accepted at the Matter 1 hearing that the SA process is iterative and that failings can be addressed by a later Addendum to the SA. However, for this to happen, the failings have to be identified at this stage and new material published and consulted upon. Failure to do so would mean that the SA would fail the legal and policy tests on adoption of the Local Plan.

Adequate Evidence Base

- 3 FPC agrees that "there is no specific requirement for a SA to draw on any specific evidence base" (para 16). However the evidence should be sufficient to identify any "likely significant impacts." If these impacts cannot be identified because of an inadequate evidence base, the SA must be defective both legally and in policy terms.
- 4 CYC's response uses air quality to explain its position. We are happy to do likewise. Paragraph 19 of the Response quotes from the 2013 and the Reg 19 SAs on air quality. However these quotes simply highlight the existing problems of air quality in York and why air quality needs to be addressed adequately by the SA. The AQ Monitoring Reports for 2021 and 2022 referred to by the Response were prepared after the production of the SA and are therefore irrelevant to the question of its adequacy. Moreover, CYC placed these AQ reports within the Examination Library after the relevant hearings when air quality was discussed and there has been no opportunity for participants to comment on their implications. In conclusion, there is nothing in CYC's Response which challenges FPC's basic proposition that the Council's evidence base is inadequate to identify likely significant air quality impacts from the Local Plan proposals.

Lack of Any SA of the Spatial Development Strategy

- 5 The CYC response (para 24) fails to grapple with two fundamental issues about the spatial development strategy which underlies the Plan and is now set out for the first time in PM55:-
1. The spatial development strategy has not been the subject of any assessment at Reg 19 stage or subsequently. The individual sites have been assessed but not the strategy which underlies them.
 2. The Plan's spatial development strategy as now set out in PM55 is a hybrid of the options set out in the 2013 SA as it comprises restricted peripheral development around the main urban area, the strategic expansion of Haxby, the more limited expansion of some other villages and restrictions on other rural settlements. The reason why this hybrid strategy has been taken forward is not explained by the SA. The fact that the references to two of the new settlements were originally assigned to proposed urban extensions is irrelevant. It is clearly of strategic significance that the Plan now treats these sites as new settlements rather than urban extensions. In relation to ST14 the site is markedly different from the original allocation.

Reasonable Alternatives to the Housing and Employment Growth Figures

- 6 FPC accepts that the Council has considered some reasonable alternatives to **the housing growth figure** which are higher than the preferred option (paras 25 and 26). However it has not explained why a lower figure than 790dpa was not assessed either at Reg 19 stage or previously. Failure to consider a lower figure as a reasonable alternative or to give reasons why means that the SA fails both the policy and legal tests (**Heard v Broadland DC H4**).
- 7 The CYC response does not address the gross error by the SA in the assessment of **the employment growth figure**, namely that the preferred option would reduce net in-commuting to York when it would do the opposite if not matched by an increase in housing provision. This gross error undermines the whole conclusion of the assessment.

Unreasonable Judgements on Key Impacts

- 8 The CYC response misrepresents FPC's argument on this matter (paras 27 and 28). By applying unreasonable judgements, the SA has failed to identify likely significant impacts which is a policy and legal requirement of the SA.

Significant Impacts of Required Off-Site Infrastructure

- 9 The CYC response (para 30) is correct to say that a SA does not need to take into account all the impacts of off-site infrastructure. Many of these impacts will be minor. However where

off-site infrastructure will cause very significant impacts (as in the case Of ST15), these should be assessed as part of the SA. The SA does not do this as it simply notes that off-site road infrastructure for ST15 will be required. This is not an adequate assessment and means that the assessment fails the legal and policy tests.